

Exhibit T

CERTIFIED ORIGINAL
LEGALINK BOSTON

Volume: I

Pages: 1-105

Exhibits: None

UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

C.A. No. 04-10131 RBC

----- x

HEATHER KIERNAN,

Plaintiff

vs.

ARMORED MOTOR SERVICE OF AMERICA, INC.

and FRANCESCO CIAMBRIELLO,

Defendants

----- x

DEPOSITION OF EDWARD O'BRIEN

Thursday, June 16, 2005 - 9:59 a.m.

McLeod Law Offices

77 Franklin Street

Boston, Massachusetts

Reporter: Maureen J. Manzi, CSR

1 APPEARANCES:

2 *** MCLEOD LAW OFFICES

3 (BY WILLIAM J. MCLEOD, ESQ.)

4 77 Franklin Street

5 Boston, Massachusetts 02110

6 (617) 542-2956

7 Counsel for the Plaintiff

8

9 *** MORGAN BROWN & JOY, LLP

10 (BY ALLISON K. ROMANTZ, ESQ.)

11 200 State Street

12 Boston, Massachusetts 02109

13 (617) 523-6666

14 Counsel for the Defendant, Armored Motor
15 Service of America, Inc.

16

17

18

19

20

21

22

23

24

I N D E X

EDWARD O'BRIEN

BY MR. MCLEOD 4, 93

BY MS. ROMANTZ 84

E X H I B I T S

- NONE -

P R O C E E D I N G S

EDWARD O'BRIEN, having been
satisfactorily identified by the production of his
driver's license, and duly sworn by the Notary
Public, was examined and testified as follows:

MR. MCLEOD: Same stipulations as before

MS. ROMANTZ: That's fine.

DIRECT EXAMINATION

BY MR. MCLEOD:

Q. Mr. O'Brien, you have the right to read the
transcript that the court reporter is going to be
preparing today and make any corrections that you
wish. You'll be able to do that within a 30 day
period after we receive it. Is that something you'd
like to do?

A. I might.

Q. I'll make it available for you then.

A. Yes.

Q. You'll have 30 days. You won't have to sign
it in the presence of a notary.

A. Okay. I have to sign off on it though,
right?

Q. You don't have to, but if you want to, you
have that right.

1 you know?

2 A. I don't recall that, how long. Once he did
3 it, it was just a egregious violation for us. It's
4 not a matter of how long. As soon as he opens the
5 door, he puts everybody else at risk.

6 Q. And how about in the office, how long was he
7 in the office?

8 A. I didn't make any notes. I wasn't tracking
9 the time the door closed. They were in there for a
10 period of time. I had no idea.

11 Q. Was he seen going into the room, the office
12 before or after he was seen outside?

13 A. I believe it was before.

14 Q. And did you yourself when you were viewing
15 the tapes ever take notes?

16 A. No.

17 Q. Did anyone besides you from AMSA ever see
18 the tapes?

19 A. Bill Callahan, maybe Jason Cory, the manager
20 might have been there that day, but the place where
21 we showed the tapes, there was. Very little room.
22 It's a small closet area. It was a small facility.
23 we had a couple of recorders in there, and we locked
24 up the room, secured it, alarmed it. But as it,

1 grew they kept putting more recorders. It's a very,
2 very small room. So it was me to be able to play a
3 monitor and the two lawyers would be standing there
4 cramped, they're watching and listening. If Cory
5 was there, he was outside standing next to -- so he
6 may have seen something or heard something.

7 Q. The last thing you needed was a fourth body
8 in the room?

9 A. Yeah. I mean, it was hot enough. It's not
10 the best situation. It's not set up primarily for
11 that setup to play a tape back, tape it and get out
12 of there.

13 Q. The date and time that would have been
14 posted on the screen, they were consistent on all
15 screens?

16 A. Consistent?

17 Q. Well, they would have all shown the same
18 date and time?

19 A. Depends. The crew was supposed to check
20 them, I say the opening crew or whoever went in and
21 checked the tapes was supposed to check them every
22 morning, play them back and make sure they're
23 working, and at some point make sure that the times
24 are all consistent with other. But they're pieces

1 that AMSA was going to be sued for this, for the
2 incident.

3 A. At that point, maybe. I'm not sure what the
4 charge -- I'm not sure what my thought process was.
5 I don't recall whether I knew then whether we were
6 going to be sued or not by who for anything.

7 Q. Were you aware at that point that there had
8 been a Workers' Compensation case?

9 A. I don't recall that. I'm trying -- it was
10 not something that I would be involved in back then,
11 Workers' Comp. So it wasn't -- I wouldn't have
12 known what a Workers' Comp case was other than in my
13 mind somebody falling off a truck and hurts
14 themselves at that point. But, no, I don't recall
15 what I knew back then as far as civil matters or
16 anything like that.

17 Q. Do you recall ever having a discussion with
18 Pamela Storm?

19 A. No. Refresh my memory. Who is she?

20 Q. She's an attorney. No recollection? She
21 was involved in a Workers' Comp case.

22 A. For AMSA? On AMSA's side?

23 Q. My understanding is that she was with the
24 insurance company.

1 Q. Yeah.

2 A. He was right there.

3 Q. I know. What were you talking about?

4 A. Nothing specific other than what they wanted
5 to see on the tape.

6 Q. That's it?

7 A. Yeah.

8 Q. How about Mr. Ardito?

9 A. No. Same thing.

10 Q. Did Mr. Ardito mention that Ms. Kiernan was
11 suing AMSA at this time?

12 A. No, I don't recall that.

13 Q. And how many tapes did they have with them,
14 if you recall?

15 A. I don't recall. I just remember three. I
16 don't remember if they had them all.

17 Q. Now, the assistant district attorney, did he
18 say anything to you like I need copies of these
19 tapes or how do I get these tapes to look normal, if
20 you know what I mean, in terms of not having them be
21 garbledy gook and be able to play on a regular VCR?

22 A. He might have asked about copying the tapes.
23 I don't recall my specific conversation. But I
24 would have told him I could have made copies of

1 when I say this time period, let's just say the
2 first half of 2001. Had there been any customer
3 complaints coming from the Attleboro facility?

4 A. Disputes?

5 Q. Disputes. Thank you.

6 A. I'm sure there were. I'm sure there were,
7 yeah, for the amount of deposits we did around
8 there.

9 Q. Do you have any recollection as to the
10 number?

11 A. No. No. Maybe two a month. Maybe two a
12 month. Yeah, for that facility that would be pretty
13 typical.

14 Q. In setting the times on the multiplexers,
15 the dates and times, that would have been the
16 responsibility of the manager?

17 A. Overall. You have to assign somebody that
18 is very responsible to go in and change tapes every
19 day and to maintain -- it was under alarm. So they
20 have to have an alarm code to get in and a key.
21 It's a situation where if the branch comes under
22 duress or somebody tries to rob it, they want to get
23 at the tapes, the bad guys. So we have a method
24 through the alarms to send a duress in case it's

1 robbed. So whoever had the alarm and keys and codes
2 to get in there was an important person to us
3 securitywise.

4 Q. In terms of the day of the viewing, you
5 testified that Mr. Ardito and the assistant district
6 attorney were arguing back and forth in terms of
7 what they were seeing on the tapes and what they
8 were both inferring in terms of what they were
9 seeing. Was it a heated argument?

10 A. Oh, no. No. It was just discussion. As we
11 watched the tape, a person walking the down the
12 hall, there was the hand on the back. There was
13 some discussion about that. I think it was the
14 first time they had heard that conversation, that
15 piece.

16 Q. The piece of?

17 A. Where she made the statement that "I don't
18 want to go back there now." There was some talk
19 about what that meant.

20 Q. And you're sure she said "now"?

21 A. I'm almost positive because in retrospect
22 thinking about it, I wasn't sure what that inference
23 was.

24 Q. And you told the police that she didn't want

1 Q. Ultimately responsible for the branch?

2 A. Yeah, for all that.

3 Q. I'm all set.

4 MS. ROMANTZ: Great. I am, too.

5 (Whereupon, at 12:09 p.m., the

6 deposition of Edward O'Brien adjourned.)

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

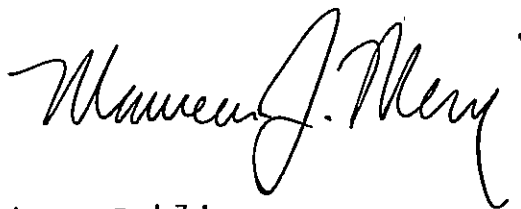
1 COMMONWEALTH OF MASSACHUSETTS
2 MIDDLESEX, ss.

CERTIFIED ORIGINAL
LEGALINK BOSTON

105

3 I, Maureen J. Manzi, Certified Shorthand
4 Reporter and Notary Public, CSR #135093, duly
5 commissioned and qualified in and for the
6 Commonwealth of Massachusetts, do hereby certify
7 that there came before me on the 16th day of June,
8 2005 the person hereinbefore named, who was by me
9 duly sworn to testify to the truth and nothing but
10 the truth of their knowledge touching and concerning
11 the matters in controversy in this cause; that they
12 were thereupon examined upon their oath, and their
13 examination reduced to typewriting under my
14 direction and that the deposition is a true record
15 of the testimony given by the deponent.

16 In Witness Whereof, I have hereunto set my
17 hand and affixed my seal this 26th day of June,
18 2005.

19
20 
21

22 Notary Public

23 My Commission Expires:

24 January 17, 2008